

Remarks/Arguments:

Claims 2, 3, and 4 are pending, claims 3 and 4 being added, hereby.

Claim 1 is canceled hereby, without prejudice or disclaimer.

Present claim 3 corresponds to original claim 1, rewritten in order to more clearly define the subject invention, as explained further below. Present claim 4 corresponds to original claim 2, rewritten to more clearly define the instant invention.

Claim 1 was rejected under 35 USC 112, second paragraph, as allegedly being indefinite "since the claim does not set forth any steps involved in the method/process" (Office Action, page 2).

Claim 1 was rejected under 35 USC 101 based essentially on the same reasoning as set forth, above, with respect to the rejection under section 112, paragraph 2.

As indicated, above, claim 1 is rewritten as present claim 3. Claim 3 positively recites process steps in the active tense, i.e., beginning each process step with the word "applying." Accordingly, the rejections under 35 USC 112, second paragraph, and 35 USC 101 are overcome, and withdrawal of the rejections is in order.

Claim 2 was rejected under 35 USC 102(e) by each of US 6103537 (Ullman) and US 6117326 (Schure). Reconsideration of the rejections under § 102(e) is requested, in that neither Ullman nor Schure anticipates present claim 2 under § 102(e).

For anticipation under § 102 to exist, each and every claim limitation, as arranged in the claim, must be found in a single prior art reference. *Jamesbury Corp. v. Litton Industrial Products, Inc.*, 225 USPQ 253 (Fed. Cir. 1985). The absence from a prior art reference of a single claim

limitation negates anticipation. *Kolster Speedsteel A B v. Crucible Inc.*, 230 USPQ 81 (Fed. Cir. 1986). A reference that discloses "substantially the same invention" is not an anticipation. *Jamesbury Corp.* To anticipate the claim, each claim limitation must "*identically* appear" in the reference disclosure. *Gechter v. Davidson*, 43 USPQ2d 1030, 1032 (Fed. Cir. 1997) (*emphasis added*). To be novelty defeating, a reference must put the public in possession of the identical invention claimed. *In re Donahue*, 226 USPQ 619 (Fed. Cir. 1985).

Rejected claim 2 defines a "capillary . . . filled with a support material," which can be used in capillary electrochromatography. The recited support material comprises "a base material containing hydroxy groups ... [and] reversed phases consisting of fatty acid residues." The reversed phased material is found only in the pores of the porous particles (i.e., "limited to the inner surfaces of [the] porous particles").

Ullman [Abstract] discloses "methods for masking inhomogeneity of a member of a specific binding pair (sbp) employed in a capillary electroseparation." Ullman uses specific receptors bound to particles in order to effect homogenous mobility of receptors during separation. According to Ullman (col. 12-13.), "capillary electroseparation" is

. . . electroseparation, preferably by electrokinetic flow, including electrophoretic, dielectrophoretic and/or electroosmotic flow, conducted in a tube or channel of about 1-200 micrometer, usually, about 10-100 micrometers cross-sectional dimensions. Usually, the capillary is a channel in a wafer or film comprised of silver, glass or plastic. In one embodiment an apparatus for carrying out a capillary electroseparation comprises an electroseparation channel containing an electrically-conductive medium, an injection zone, a mixture comprising sample and specific binding members and a source of voltage.

As taught by Ullman (col. 22, lines 28-40), the electrically conductive medium contains

... dissolved salts, usually, at concentrations greater than about 10 mM, preferably, greater than about 50 mM. The medium may also contain other components depending on the nature of the synthetic particles used in the present invention. For example, for particles that modify the hydrodynamic flow properties of the sbp member, a sieving gel is employed. Examples of other components that may be included in the medium are agarose, polyacrylamide, silica, gelatin, Smartgel® and other commercially available gel agents.

As exemplified by the foregoing, Ullman does not discriminate between an outer surface and an inner surface of particles, let alone teach particles having an inner surface coated differently than the outer surface. Moreover, Ullman teaches nothing whatsoever about particles having particular affinity properties that are found only on the inner surface of the particles, as in the presently claimed invention.

Accordingly, a limitation on present claim 2 being absent from Ullman, anticipation based on Ullman is negated, *Kolster Speed Steel AB, supra.*, and withdrawal of the rejection of claim 2 under 35 USC 102(e) based on Ullman appears in order.

Schure discloses a special gel for use in capillary electrochromatography. This gel may also comprise fatty acids. However, as with Ullman, Schure fails to teach any difference between the properties of the inner surface, on the one hand, and the outer surface, on the other, of the particulate fill material used in a capillary for capillary electrochromatography.

Accordingly, a limitation on present claim 2 being absent from Schure, anticipation based on Schure is negated, *Kolster Speed Steel AB, supra.*, and withdrawal of the rejection of claim 2 under 35 USC 102(e) based on Schure appears in order.

***Request for Acknowledgment of
Foreign Priority Under 35 USC 119***

A claim to foreign priority under 35 USC 119 has been made (inventorship declaration, filed January 8, 2002) and the certified copy of the priority document received by the PTO (Notification of Missing Requirements, mailed October 19, 2001 by the PTO, and Form PCT/IB304, mailed June 27, 2000 by the International Bureau).

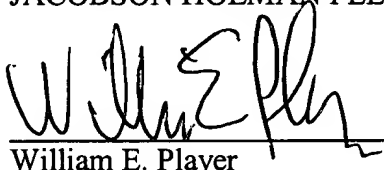
Accordingly, request is made that the Examiner mark the next Office Action to acknowledge, both, the claim to §119 priority and receipt of the certified copy.

Favorable action is requested.

Respectfully submitted,

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